

Joshua Adam Schulte, *pro se*

December 10, 2021¹

BY HAND

Judge Jesse M. Furman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

RE: *United States v. Joshua Adam Schulte*, S3 17 Cr. 548 (JMF)

Dear Judge Furman:

I write the Court regarding missing discovery. I have sent the government multiple letters and even spoke with them over the phone about several items that I am missing in discovery. Since the government never responded or provided the missing discovery, I now must ask the Court for intervention.

A. Letter from 11/22/21 and phone conversation from the same time

1. Missing Google emails (Gmail)

As I informed the government weeks ago, *Production 4 - 2017.10.24\# 3 - 2017.03.14 Google SW Returns\JAS_019518. MBox Data* is missing the Google emails file, joshschulte1@gmail.com.Gmail.Content.mbox. Instead, the government provided a dump from its own analysis tool under Email\ which only includes a very small subset of the emails—those “bookmarked” by the government. The output from the analysis tool within the Email\ directory clearly references the missing Google emails file. See, e.g. [Bookmark_bk_ID105001\(3668\).html](#):

class="bkmkColRight bkmkValue">980638-20170314-

4/joshschulte1@gmail.com.Gmail.Content.mbox»entry #2242333663.eml»mime part 2.eml

The Court should order the government to provide the missing gmail file,
joshschulte1@gmail.com.Gmail.Content.mbox

2. Missing Verizon FiOS Subpoenas and returns

As I informed the government weeks ago, the government failed to provide the subpoena and subpoena returns from Verizon FiOS in discovery. While the government does

¹ Document delayed until December 16, 2021 pending classification decision on classified Exhibit A (not attached)

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provide *Production 14 - 2018.08.08\Subpoena Returns\VerizonVerizonFIOS*, Verizon returns no data, and requests the FBI provide them additional information. However, the updated subpoena and subpoena returns **are never provided**. Additionally, the production before 14 provides a Verizon 2703(d) with no context, no subpoena, and no full returns (*Production 13 - 2018.07.17\1. Production\09 Verizon 2703(d)*).

The Court should order the government to provide all missing Verizon FiOS subpoena and subpoena returns.

B. Issues discussed with the government over the phone

1. Missing forensic discovery productions 6, 9, and 12

As I informed the government weeks ago, the MDC lost my large external discovery drive that contained productions 6, 9, and 12. The government repeatedly tells the Court that it would replace all of my large external hard drives that require external power with smaller form factor drives, yet it does not do so. Prior to the MDC losing this discovery drive, it lost the power cable to the drive, and despite multiple requests to obtain a new cable, the government simply ignored all my requests. Accordingly, I have been unable to review forensic discovery productions 6, 9, and 12 for approximately two years—since the first trial failed in a hung jury.

2. Request for discovery indexes

I requested the government provide updated final discovery indexes, complete with the discovery production number, date, and a list of materials included therein; both for unclassified and classified discovery. I believe this is necessary to ensure everyone is on the same page, especially considering the government's failure to produce several warrants in discovery. The government never responded, and I ask the Court order the government to provide these indexes.

3. Unable to access forensic discovery in the SCIF²

I am unable to access QNY09_SC01_RAID5/partition_2 from the child pornography discovery hard drive recently provided to me in the SCIF. It appears to be encrypted or otherwise unreadable and inaccessible from the forensics tools provided. The government

² The official letter was filed recently, on December 9, 2021, but the issues were previously discussed by phone

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should produce this discovery in decrypted, readable format. Additionally, the government does not allege it contains either child pornography or classified materials—the Court should order the government to explain why it is included as part of the child pornography materials.

I am also unable to extract SC1_1/root/volume for forensic review, and ask the Court to order the government to extract and provide a copy of this file.

C. Brady Violation still not addressed

I originally wrote the Court about the government's continual refusal to turn over forensic reports and analysis by the CIA's Advanced Forensics Division (AFD) on September 14, 2021. The government responded in its November 11, 2021 letter claiming no such reports exist. I then wrote to the Court on November 18, 2021 referencing the clear and convincing evidence that these reports *DO* exist. The government continues to hide critical forensic data along with exculpatory analysis from the CIA.

1. AFD references from Lync Messages

"Couple things: 1. AFD previously assessed it was not possible that the info Wiki had to have come from a backup. As of Friday, that was walked back. The error they thought was in the backup script was not actually there. As such, there was a backup of the Atlassian products on the File Share that every DevLAN user had access to. Bottom line: subject pool is every DevLAN user now. This may be significant in terms of PC for future warrants."

The references to AFD assessments clearly indicate that there is some reports and/or forensic analysis indicating that "there was a backup of the Atlassian products on the File Share that every DevLAN user had access to." This was a major contention at trial as the government experts testified the opposite—that no one could have accessed the backups but me. Since the defense was prohibited from conducting a forensic examination, we had no ability to challenge this false assessment. However, here is seems clear that AFD reports indicate the exact opposite of what the government's experts testified to at trial.

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2. AFD references from FBI 302s

There are multiple references in FBI 302s indicating that the CIA's AFD is the primary party conducting the WikiLeaks forensics investigation.³ Where a forensics investigation occurs, there is a paper trail, be it electronic or actual paper. The government cannot honestly claim there are no AFD reports when they were the primary entity charged with forensic examination and analysis of the WikiLeaks release.

3. Personal knowledge from the CIA

Finally, I have personal knowledge of AFD from working at the CIA; I have read AFD forensic reports and analysis, and I have direct knowledge that the AFD conducts extensive investigations and delivers extensive reports of its findings to CIA management for each and every leak or other project that they are assigned. These reports exist. The CIA and/or prosecutors are hiding this exculpatory evidence from the defense.

Respectfully submitted,

Joshua Adam Schulte

A handwritten signature in black ink, appearing to read 'JA Schulte', written in a cursive style.

³ There is a quotation here from a classified source I believe to be unclassified, but the CISO recommends that I note it here in the footnote, and attach the quote as a classified exhibit pending classification review